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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

ISAI BALTEZAR, & JULIE CHO,

Plaintiffs,

vs.

MIGUEL CARDONA, *in his official capacity*
as Secretary of Education, & UNITED
STATES DEPARTMENT OF EDUCATION,

Defendants.

Case No. 20-cv-00455-EJD

**PLAINTIFFS' STATEMENT IN
SUPPORT OF THE
ADMINISTRATIVE MOTION BY
HOUSING AND ECONOMIC RIGHTS
ADVOCATES AND THE PROJECT ON
PREDATORY STUDENT LENDING
TO FILE AN AMICUS CURIAE BRIEF**

Date: March 24, 2022

Time: 9:00 am

Place: Courtroom4,5thFloor

Judge: Hon. Edward J. Davila

DATE: November 23, 2021

STATEMENT IN SUPPORT

Pursuant to Local Rule 7-11(b), Plaintiffs Isai Baltezar and Julie Cho respectfully submit this short statement supporting the Administrative Motion, Dkt. 55, by Housing and Economic Rights Advocates (“HERA”) and the Project on Predatory Student Lending (“Project,” and together with HERA, “Movants”) to file an amicus brief in this matter. Movants support the position asserted by Plaintiffs, *i.e.*, that to the extent the Court remands the challenged Repeal of the Gainful Employment Rule, it should only do so by also vacating that Repeal. *See* Dkt. 55-1 at 4 (“While amici do not oppose remand, any decision to remand should also vacate the Repeal Rule.”). Defendants also now consent to Movants’ request; therefore the parties are now all in agreement that Movant’s be granted permission to file. *See* Dkt. 57 at 2. (“Defendants therefore consent to Proposed Amici’s Motion to File.”).

Movants are organizations that represent student borrowers who attended and have been harmed by predatory institutions of higher education that—but for the Repeal—would be regulated by the Gainful Employment Rule. HERA is a non-profit organization, based in the Northern District, that provides legal services and advocacy on behalf of vulnerable Californians, including on issues of student debt. The Project, housed at the Legal Services Center of Harvard Law School, represents thousands of former students across the country in impact litigation to protect the rights of student loan borrowers. Both organizations serve as counsel to student borrowers in cases within the Northern District, including *Calvillo Manriquez v. Cardona*, No. 3:17-cv-07210-SK (N.D. Cal. filed Dec. 20, 2017) and *Sweet v. Cardona*, No. 19-cv-3674-WHA (N.D. Cal. filed June 25, 2019).

Courts in this District “frequently welcome amicus briefs from nonparties concerning legal issues that have potential ramifications beyond the parties directly involved or if the amicus has ‘unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide.’” *NGV Gaming, Ltd. V. Upstream Point Molate, LLC*, 355 F. Supp. 2d 1061, 1067 (N.D. Cal. 2005). Considering the “great liberality” that courts show in permitting amicus briefs, a prospective amicus need only show a perspective that is “useful or otherwise desirable” for the Court to consider. *California by & through Becerra v. United States*

1 *Dep't of the Interior*, 381 F. Supp. 3d 1153, 1164 (N.D. Cal. 2019).

2 Movants readily exceed this standard. Whereas Plaintiffs have alleged that they are
3 *prospective* students who the Gainful Employment Rule was designed to benefit and who lack
4 the necessary information to make informed enrollment decisions, *see, e.g.*, Compl. ¶¶ 30–34,
5 38–42, Movants represent thousands of students who have *already been injured* by the types of
6 institutions and programs covered by the Gainful Employment Rule. They have keen knowledge
7 of the experiences of individuals harmed by higher education programs that did not provide
8 value. As stated by Movants, they—and the clients they represent—have seen “the harm to
9 students caused by predatory schools, unsustainable debt burdens, and abrupt school closures.”
10 Dkt. 55 at 1. These are the same schools and programs that have benefitted from the elimination
11 of the guardrails enshrined in the Gainful Employment Rule and will continue to do so absent
12 vacatur of the Repeal.

13 Movants are also represented by experienced legal counsel, whose proposed submission
14 embraces the “classic role” of an amicus curiae, *i.e.*, to “assist[] in a case of general public
15 interest” and “supplement[] the efforts of counsel.” *Stanley v. Ayers*, No. 07-CV-04727-EMC,
16 2021 WL 121191, at *2 (N.D. Cal. Jan. 13, 2021). Movants’ proposed submission provides
17 valuable, additional perspective regarding the harms to students that will result absent vacatur,
18 *see* Proposed Amicus, Dkt. 55-1, at 6–12, without “creat[ing], extend[ing], or enlarg[ing]” any
19 issues in this litigation. *Cty. of Marin v. Martha Co.*, No. C 06-0200 SBA, 2007 WL 987310, at
20 *1 (N.D. Cal. Apr. 2, 2007). This is, quite simply, the quintessential amicus submission.

21 For the reasons stated herein and expressed by Movants, and in light of the fact that both
22 Plaintiffs and Defendants support the filing of an amicus brief, the Court should grant Movants’
23 motion and permit the filing of the amicus brief.

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25 Respectfully Submitted,

1
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